

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA  
9

10 CURTIS BARKER,

11 Petitioner,

12 vs.

13 WARDEN PALMER, *et al.*,

14 Respondents.  
15 \_\_\_\_\_

)  
)  
) 2:11-cv-00440-JCM-CWH  
)  
)  
)

**ORDER**

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,  
17 by a Nevada state prisoner. Petitioner has filed a motion to proceed *in forma pauperis*. (ECF No. 1).  
18 Based on the information regarding petitioner's financial status, the court finds that the motion to  
19 proceed *in forma pauperis* should be granted.  
20

21 The petition shall now be filed and served on respondents. A petition for federal habeas  
22 corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include  
23 such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that  
24 claim. *See* 28 U.S.C. §2254(b) (successive petitions).

25 Petitioner has filed a motion for the appointment of counsel. (ECF No. 2). There is no  
26 constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v.*

1 *Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The  
2 decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th  
3 Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.),  
4 *cert. denied*, 469 U.S. 838 (1984). In the instant case, the petition on file in this action is well-  
5 written and sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in  
6 this case are not complex. It does not appear that counsel is not justified in this instance. The  
7 motion is denied.

8 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (ECF  
9 No. 1) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (ECF  
11 No. 2) is **DENIED**.

12 **IT IS FURTHER ORDERED** that the clerk shall **FILE and ELECTRONICALLY**  
13 **SERVE** the petition (ECF No. 1-2) upon the respondents.

14 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of  
15 this order within which to answer, or otherwise respond to, the petition. In their answer or other  
16 response, respondents shall address all claims presented in the petition. Respondents shall raise all  
17 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and  
18 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,  
19 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the  
20 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have  
21 **forty-five (45) days** from the date of service of the answer to file a reply.

22 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall  
23 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy  
24 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the Reno  
25 Division of the Clerk of Court.

Dated this 15th day of March, 2012.

3